



1171 11/01/06 \$2,875.00

OFFICE OF
INSURANCE COMMISSIONER

In the Matter of)

No. D06-271A

CHEROKEE INSURANCE)
COMPANY,)

REVISED CONSENT ORDER
IMPOSING A FINE

An Authorized Insurer)
_____)

Findings of Fact:

1. Cherokee Insurance Company ("Cherokee") is authorized to conduct insurance business in Washington State. It issues disability, casualty, marine transportation, surety, and vehicle insurance.
2. Revised Code of Washington § 48.05.073 requires every insurer to file its financial statements with the Office of the Insurance Commissioner ("OIC") as required by the insurance code and the commissioner in accordance with the *National Association of Insurance Commissioners' Quarterly and Annual Statement Filing Instructions*.
3. The OIC sent an email on December 13, 2004 to Cherokee explaining the filing requirements for calendar year 2004, including the requirement that all documents be filed electronically. The email also directed Cherokee to detailed filing instructions on the OIC website. The instructions specify that confirmation of receipt of a filing by OIC is by way of its "WA_EM" system, which will list the PDF and TXT files accepted or rejected, and explain the reason for any files rejected.
4. Cherokee filed only paper copies of its calendar year 2004 Annual Statement and 2004 April Supplemental filing with the OIC on or about February 25, 2005. On April 14, 2005, the OIC sent a letter to Cherokee reminding it that the electronic filing of its calendar year 2004 Annual Statement and April Supplement were outstanding. Cherokee electronically filed its calendar year 2004 Annual Statement and April Supplement with the OIC on June 29, 2005.
5. On or about June 1, 2005, Cherokee filed a paper copy of its calendar year 2004 Audited Financial Statements with the OIC. On June 24, 2005, the OIC sent a letter to Cherokee, informing it that the electronic filing of its calendar year 2004 Audited Financial Statements was still outstanding. Cherokee attempted to file the Audited Financial Statements on June 29, 2005, but the filing arrived corrupt and thus was

unusable. OIC's "WA_EM" automatic email response system is unable to respond to filings that arrive corrupt.

6. When OIC did not receive the Audited Financial Statements, it sent a letter to Cherokee on December 9, 2005, giving Cherokee notice that its certificate of authority would be revoked on December 22, 2005. Cherokee electronically filed its calendar year 2004 Audited Financial Statements on December 13, 2005. By letter dated January 12, 2006, OIC withdrew the notice of revocation.

7. Cherokee timely electronically filed its calendar year 2005 Annual Statement and supplements with the OIC on February 28, 2006, but did not file the signature pages for the Jurat and the Statement of Actuarial Opinion. By letter dated May 1, 2006, OIC reminded Cherokee that the signatures were outstanding. Cherokee filed the paper signature pages for the Jurat and the Statement of Actuarial Opinion with the OIC on May 9, 2006.

Conclusions of Law:

1. Washington Administrative Code 284-07-070 requires that Annual and other financial reports filed by an insurer with the OIC be filed electronically as directed by the Commissioner.

2. Cherokee's failure to timely complete filing of its calendar year 2004 Annual Statement, 2004 April Supplemental filings, 2004 Audited Financial Statements and calendar year 2005 Audited Financial Statements constitutes four violations of RCW 48.05.250.


3. RCW 48.05.185 authorizes the Commissioner to impose a fine of between \$250 and \$10,000 per violation of the Insurance Code in lieu of or in addition to the suspension or revocation of an insurer's certificate of authority.

Consent to Order:

Cherokee consents to the following, in order to resolve this matter without further legal or administrative proceedings. The Insurance Commissioner consents to resolve this matter in consideration of the insurer's payment of a fine as set forth below.

1. Cherokee consents to the entry of the foregoing Findings of Fact and Conclusions of Law, and acknowledges its duty to comply fully with all applicable laws and regulations of the State of Washington. It waives further administrative or legal challenge to the actions taken by the Insurance Commissioner related to the subject matter of this Order.

2. Within thirty days of the entry of this Order, Cherokee will pay to the Insurance Commissioner a fine in the amount of \$2,875 (two thousand eight hundred seventy five dollars).



3. Failure to pay the fine in full within thirty days of the entry of this order will constitute grounds for revocation of the certificate of authority held by Cherokee in Washington State. It will also result in a civil action being brought by the Attorney General on behalf of the Insurance Commissioner, to recover the fine.

Executed this 30th day of October, 2006.

CHEROKEE INSURANCE COMPANY

By: 

Printed Name: Mark J. Dadabbo

Printed Corporate Title: President

Pursuant to the foregoing Findings of Fact, Conclusions of Law, and Consent to Order, the Insurance Commissioner orders as follows:

Order:

1. Cherokee Insurance Company is ordered to pay, within thirty days of the entry of this order, a fine in the amount of \$2,875 (two thousand eight hundred seventy five dollars).

2. Failure to pay the fine timely and in full will constitute grounds for revocation of the certificate of authority held by the insurer in Washington State. It will also result in a civil action being brought by the Attorney General on behalf of the Insurance Commissioner, to recover the fine.

Executed this 6th day of November 2006

MIKE KREIDLER
Insurance Commissioner

By: 

Marcia G. Stickler
Legal Affairs Division